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EXAMINER	
YOUNG, JOHN L	
ART UNIT	PAPER NUMBER

3622

DATE MAILED: 10/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 08/864,762	Applicant(s) Tomita
	Examiner John Young	Art Unit 3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Jun 4, 2002

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 17, 18, 24-26, 28-30, 32-35, 37, 50, 52, 53, and 65-77 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 17, 18, 24-26, 28-30, 32-35, 37, 50, 52, 53, and 65-77 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

4) Interview Summary (PTO-413) Paper No(s). _____

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

6) Other: _____

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FIRST ACTION REJECTION BASED ON (RCE)

REQUEST FOR CONTINUED EXAMINATION (RCE)

1. **The request for continued examination (RCE) filed on 06/04/2002 under 37 CFR 1.114 based on parent Application No. 08/864,762 is acceptable and an RCE has been established; an action on the RCE follows.**

2. **Claims 67-77 are added by Amendment I, paper# 46 filed 06/04/2002.**

3. **Claims 17, 18, 24-26, 28-30, 32-35, 37, 50, 52, 53 & 65-77 are pending.**

DRAWINGS

4. **This application has been filed with drawings that are considered informal; said drawings are acceptable for examination purposes.**

CLAIM REJECTIONS — 35 U.S.C. §112 ¶2

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Antecedent Basis and Inferential Claiming

5. Claims 17 & 30 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

As per claim 17, said claim at line 16 suffers from inferential claiming because there is no explicit antecedent basis in the claim for "the terminal. . . ."

Dependent claim 30 is rejected for substantially the same reasons as claim 17 because claim 30 depends from claim 17.

CLAIM REJECTIONS — 35 U.S.C. §103(a)

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Independent claims 17, 18, 28, 50 & 52 and dependent claims 29 & 53 are rejected under 35 U.S.C. §103(a) as being unpatentable over Schultz et al. 5,056,019 (10/8/1991) (herein referred to as “Schultz”) in view of Burton et al. 5,025,372 (6/18/1991) (herein referred to as “Burton”) and further in view of Small 4,815,741 (03/28/1989) (herein referred to as “Small”).

As per claim 17 Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-11; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 57-68; col. 6, ll. 1-4; and col. 6, ll. 10-12) shows a “point management system employing a computer for managing points issued to each customer who receives service according to the issued points. . . .”

Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 8, ll. 45-55; col. 8, ll. 64-65; and col. 10, ll. 46-50) shows “point issue means for issuing the points to the customer according to transactions performed by the customer. . . .”

Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 8, ll. 40-55; col. 8, ll. 64-65; col. 10, ll. 20-27; and col. 10, ll. 46-50) shows “point notification means for instantaneously notifying the customer of cumulative point information comprising the issued points. . . .”

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Schultz (col. 7, ll. 25-27) discloses “*accumulating sales data. . .*” The Examiner interprets this disclosure as suggesting “*point accumulation means. . .*”

Schultz (col. 10, ll. 7-15; col. 10, ll. 20-27; col. 10, ll. 36-39; col. 10, ll. 46-50; col. 9, ll. 25-33; col. 8, ll. 48-65; col. 7, ll. 25-27; col. 7, ll. 35-44; col. 8, ll. 1-6; and col. 5, ll. 45-53) shows “*point accumulation means for calculating and accumulating the issued points of a current transaction and issued point of a previous transaction. . .*”

Schultz (col. 6, ll. 28-36; col. 6, ll. 39-52; col. 7, ll. 5-10; and col. 10, ll. 1-13) shows “*customer identification means for identifying the customer according to customer identification information. . .*”

Schultz (col. 8, ll. 30-63) discloses “*customer service support. . .*” and elements that show “*types of services. . .*”

Schultz (col. 5, ll. 57-60) discloses: “*The purchase reward offers . . . can include standard rebates, trial rebates, gift offers, and sweepstakes offers. . .*”

Schultz (col. 5, ll. 57-60) discloses: “*Once the purchase reward offers . . . are defined by the manufacturer . . . the central management firm . . . stores records of the purchase reward offers . . . in an offer file . . . residing in the data bank of the PMCS [program management computer system] The products that are the subject of the purchase reward offers . . . have associated Universal Product Codes (UPC), which are used to access the reward offer records in the offer file. . . In the instance when a reward offer applies to several products, the UPC of each eligible product for the reward offer will access to the reward offer record to which the products apply. . .*” The

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Examiner interprets this disclosure as suggesting “wherein the point notification means includes service contents storage means for storing a list of types of services and corresponding points. . . .”

Schultz (col. 6, ll. 5-12; and col. 7, ll. 60-68) discloses “the manufacturer can offer an entry into a sweepstakes drawing for each product purchase. . . .” The Examiner interprets this disclosure as suggesting “wherein the point notification means includes service contents storage means for storing a list of types of services and corresponding points. . . .”

Schultz (col. 9, ll. 30-38; col. 9, ll. 47- 59; col. 10, ll. 7-35; col. 7, ll. 5-10; col. 7, ll. 20-59; col. 9, ll. 1-2; and col. 9, 60-65) shows “notification means . . . reads data corresponding to the type of service selected by the customer out of the storage means, and . . . notifies the customer of the read data.”

Schultz does not explicitly show “types of services. . . .”

Burton (col. 1, ll. 10-20) discloses: “*The invention relates to the field of computer programming and data processing systems for incentive award programs [sic] Heretofore incentive companies have contracted with a sponsoring company for providing an incentive program to promote the sales of the sponsoring company's products or services. . . . The products or services promoted might have been of a specific nature. . . .*”

Burton (col. 1, ll. 17-20) discloses: “*Usually a certain number of points are awarded . . . [related to the] quantity of products or services.*” In this case the Examiner

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interprets the disclosure of Burton (col. 1, ll. 10-20) as suggesting “types of services. . . .” of claim 17 in the instant invention.

Burton proposes “services” modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the “services” modifications of Burton with the teachings of Schultz because “*the participant's memory of the . . . [services] stimulates recollection of the sponsor, thus reinforcing favorable thoughts toward the sponsor.*” (See Burton (col. 3, ll. 67-68; and col. 4, ll. 1-2)).

Schultz lacks an explicit recital of: “reads data corresponding to the type of service selected by the customer out of the storage means and instantaneously notifies the customer of the read data through the terminal.”

Small (FIG. 7 through FIG. 10; col. 1, ll. 13-26; col. 1, ll. 33-42; col. 1, ll. 60-67; col. 4, ll. 27-35; col. 6, ll. 48-55; col. 9, ll. 28-37; col. 9, ll. 38-44; col. 9, ll. 53-56; col. 10, ll. 4-15; col. 11, ll. 3-9; col. 11, ll. 16-21; col. 11, ll. 62-63; col. 12, ll. 12-26; and col. 12, ll. 33-40) shows elements that suggest: “reads data corresponding to the type of service selected by the customer out of the storage means and instantaneously notifies the customer of the read data through the terminal.”

Small proposes “types of service” and instantaneous terminal notification modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the “terminal notification” modifications of Small with the teachings of Schultz.

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because such modifications would have provided a means to “*Identify a user of a remote interface device and assign a user-specific indicia thereto for matching to a randomly selected game indicia to determine whether the user wins a prize. . .*” (See Small (col. 2, ll. 30-40)).

As per claim 18, Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-11; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 57-68; col. 6, ll. 1-4; and col. 6, ll. 10-12) shows a “point management system employing a computer for managing points issued to each customer who receives service according to the issued points. . .”

Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 8, ll. 45-55; col. 8, ll. 64-65; and col. 10, ll. 46-50) shows “point issue means for issuing the points to the customer according to transactions performed by the customer. . .”

Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 8, ll. 40-55; col. 8, ll. 64-65; col. 10, ll. 20-27; and col. 10, ll. 46-50) shows “point notification means for . . . notifying the customer of cumulative point information comprising the issued points. . .”

Schultz (col. 7, ll. 25-27) discloses “*accumulating sales data. . .*” The Examiner interprets this disclosure as suggesting “point accumulation means. . .”

Schultz (col. 10, ll. 7-15; col. 10, ll. 20-27; col. 10, ll. 36-39; col. 10, ll. 46-50; col. 9, ll. 25-33; col. 8, ll. 48-65; col. 7, ll. 25-27; col. 7, ll. 35-44; col. 8, ll. 1-6; and col. 5, ll.

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45-53) shows “point accumulation means for calculating and accumulating the issued points. . . .”

Schultz (col. 6, ll. 28-36; col. 6, ll. 39-52; col. 7, ll. 5-10; and col. 10, ll. 1-13) shows “customer identification means for identifying the customer according to customer identification information. . . .”

Schultz (col. 8, ll. 30-63) discloses “*customer service support. . . .*” and elements that show “types of services. . . .”

Schultz (col. 5, ll. 57-60) discloses: “*The purchase reward offers . . . can include standard rebates, trial rebates, gift offers, and sweepstakes offers. . . .*”

Schultz (col. 5, ll. 57-60) discloses: “*Once the purchase reward offers . . . are defined by the manufacturer . . . the central management firm . . . stores records of the purchase reward offers . . . in an offer file . . . residing in the data bank of the PMCS [program management computer system] The products that are the subject of the purchase reward offers . . . have associated Universal Product Codes (UPC), which are used to access the reward offer records in the offer file. . . . In the instance when a reward offer applies to several products, the UPC of each eligible product for the reward offer will access to the reward offer record to which the products apply. . . .*” The Examiner interprets this disclosure as suggesting “wherein the point notification means includes service contents storage means for storing a list of services and corresponding points. . . .”

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Schultz (col. 6, ll. 5-12; and col. 7, ll. 60-68) discloses “*the manufacturer can offer an entry into a sweepstakes drawing for each product purchase. . . .*” The Examiner interprets this disclosure as suggesting “wherein the point notification means includes service contents storage means for storing a list of services and corresponding points. . . .”

Schultz (col. 9, ll. 30-38; col. 9, ll. 47- 59; col. 10, ll. 7-35; col. 7, ll. 5-10; col. 7, ll. 20-59; col. 9, ll. 1-2; and col. 9, 60-65) shows “*notification means . . . selects a range of services available for the cumulative points of the customer, and notifies the customer of the selected services.*”

Schultz does not explicitly recite “*a list of services. . . .*” even though Schultz suggests same.

Burton (col. 1, ll. 10-20) discloses: “*The invention relates to the field of computer programming and data processing systems for incentive award programs [sic] Heretofore incentive companies have contracted with a sponsoring company for providing an incentive program to promote the sales of the sponsoring company's products or services. . . . The products or services promoted might have been of a specific nature. . . .*”

Burton (col. 1, ll. 17-20) discloses: “*Usually a certain number of points are awarded . . . [related to the] quantity of products or services.*”

Burton proposes “*services*” modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the “*services*” modifications of Burton with the

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teachings of Schultz because “*the participant's memory of the . . . [services] stimulates recollection of the sponsor, thus reinforcing favorable thoughts toward the sponsor.*” (See Burton (col. 3, ll. 67-68; and col. 4, ll. 1-2)).

Schultz lacks an explicit recital of: “instantaneously notifies the customer of the selected services through a terminal, wherein a number of the customer's cumulative points may be redeemed for a number of the types of services.”

Small (FIG. 7 through FIG. 10; col. 1, ll. 13-26; col. 1, ll. 33-42; col. 1, ll. 60-67; col. 4, ll. 27-35; col. 6, ll. 48-55; col. 9, ll. 28-37; col. 9, ll. 38-44; col. 9, ll. 53-56; col. 10, ll. 4-15; col. 11, ll. 3-9; col. 11, ll. 16-21; col. 11, ll. 62-63; col. 12, ll. 12-26; and col. 12, ll. 33-40) shows elements that suggest: “instantaneously notifies the customer of the selected services through a terminal, wherein a number of the customer's cumulative points may be redeemed for a number of the types of services.”

Small proposes “types of service” and instantaneous terminal notification modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the “terminal notification” modifications of Small with the teachings of Schultz because such modifications would have provided a means to “*Identify a user of a remote interface device and assign a user-specific indicia thereto for matching to a randomly selected game indicia to determine whether the user wins a prize. . . .*” (See Small (col. 2, ll. 30-40)).

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As per claim 28, Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-11; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 57-68; col. 6, ll. 1-4; and col. 6, ll. 10-12) shows a “point management system employing a computer for managing points issued to each customer who receives service according to the issued points. . . .”

Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 8, ll. 45-55; col. 8, ll. 64-65; and col. 10, ll. 46-50) shows a “point issue means for issuing the points to the customer according to transactions performed by the customer. . . .”

Schultz (col. 7, ll. 25-27) discloses “*accumulating sales data. . . .*” The Examiner interprets this disclosure as suggesting “point accumulation means. . . .”

Schultz (col. 10, ll. 7-15; col. 10, ll. 20-27; col. 10, ll. 36-39; col. 10, ll. 46-50; col. 9, ll. 25-33; col. 8, ll. 48-65; col. 7, ll. 25-27; col. 7, ll. 35-44; col. 8, ll. 1-6; and col. 5, ll. 45-53) shows a “point accumulation means for calculating and accumulating the issued points. . . .”

Schultz (col. 6, ll. 28-36; col. 6, ll. 39-52; col. 7, ll. 5-10; and col. 10, ll. 1-13) shows “customer identification means for identifying the customer according to customer identification information. . . .”

Schultz lacks explicit mention of “a software service in exchange for an amount of the accumulated points, and the point accumulation means decreases the customer’s accumulated points according to a period of time of providing the software service. . . .”

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Burton (col. 19, ll. 9-68; col. 20, ll. 1-68; col. 21, ll. 46-68; col. 22, ll. 38-68; col. 23, ll. 4-68) shows elements that suggest “wherein the point management system provides a software service in exchange for an amount of the accumulated points. . . .”

Burton (FIG. 2.8A; FIG. 2.8B; col. 9, ll. 50-68; col. 10, ll. 1-7; col. 10, ll. 44-51; col. 28, ll. 16-35; and col. 28, ll. 60-68) shows elements that suggest “wherein the point management system provides a software service in exchange for an amount of the accumulated points, and the point accumulation means decreases the customer’s accumulated points according to a period of time of providing the software service. . . .”

Burton proposes software program and credit decreasing modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the credit decreasing modifications of Burton with the teachings of Schultz because “*the participants can choose to withhold none, part, or all of the monetary amount eligible for allocation toward the credit. . . .*” (See Burton (col. 4, ll.16-19)).

Schultz lacks an explicit recitation of “the customer accesses the accumulated points stored on the computer through a terminal.”

Small (FIG. 7 through FIG. 10; col. 1, ll. 13-26; col. 1, ll. 33-42; col. 6, ll. 48-55; col. 9, ll. 38-44; col. 9, ll. 53-56; col. 10, ll. 4-15; col. 11, ll. 3-9; col. 11, ll. 16-21; col. 11, ll. 62-63; and col. 12, ll. 33-40) shows: “the customer accesses the accumulated points stored on the computer through a terminal.”

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Small proposes “terminal notification” modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the “terminal notification” modifications of Small with the teachings of Schultz because such modifications would have provided a means to “*Identify a user of a remote interface device and assign a user-specific indicia thereto for matching to a randomly selected game indicia to determine whether the user wins a prize. . . .*” (See Small (col. 2, ll. 30-40)).

As per claim 29, Schultz in view of Burton shows the point management system of claim 28. (See the rejection of claim 28 supra).

Schultz lacks an explicit recitation of “the software service is provided to the customer with image and voice data through communication circuits . . . displays the decreased points on a display by denoting an alphanumeric number representing the customer’s accumulated points and by counting down the customer’s accumulated points order. . . .”

Small (col. 9, ll. 38-44; FIG. 7 through FIG. 10; col. 1, ll. 13-26; col. 1, ll. 33-42; col. 6, ll. 48-55; col. 9, ll. 53-56; col. 10, ll. 4-15; col. 11, ll. 3-9; col. 11, ll. 16-21; and col. 11, ll. 62-63) shows: “the software service is provided to the customer with image and voice data through communication circuits . . . displays the decreased points on a display by denoting an alphanumeric number representing the customer’s accumulated points and by counting down the customer’s accumulated points order. . . .”

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Small proposes “terminal notification” modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the “terminal notification” modifications of Small with the teachings of Schultz because such modifications would have provided a means to *“Identify a user of a remote interface device and assign a user-specific indicia thereto for matching to a randomly selected game indicia to determine whether the user wins a prize. . . .”* (See Small (col. 2, ll. 30-40)).

As per claim 50 Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-11; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 57-68; col. 6, ll. 1-4; and col. 6, ll. 10-12) shows a “point management system employing a computer for managing points issued to each customer who receives service according to the issued points. . . .”

Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 8, ll. 45-55; col. 8, ll. 64-65; and col. 10, ll. 46-50) shows “point issue means for issuing the points to the customer according to transactions performed by the customer. . . .”

Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 8, ll. 40-55; col. 8, ll. 64-65; col. 10, ll. 20-27; and col. 10, ll. 46-50) shows “point notification means for . . . notifying the customer of . . . point information comprising the issued points. . . .”

Schultz (col. 7, ll. 25-27) discloses “*“accumulating sales data. . . .”* The Examiner interprets this disclosure as suggesting “point accumulation means. . . .”

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Schultz (col. 10, ll. 7-15; col. 10, ll. 20-27; col. 10, ll. 36-39; col. 10, ll. 46-50; col. 9, ll. 25-33; col. 8, ll. 48-65; col. 7, ll. 25-27; col. 7, ll. 35-44; col. 8, ll. 1-6; and col. 5, ll. 45-53) shows “point accumulation means for calculating and accumulating the issued points. . . .”

Schultz (col. 6, ll. 28-36; col. 6, ll. 39-52; col. 7, ll. 5-10; and col. 10, ll. 1-13) shows “customer identification means for identifying the customer according to customer identification information. . . .”

Schultz (col. 8, ll. 30-63) discloses “*customer service support. . . .*” and elements that suggest “types of services. . . .”

Schultz (col. 5, ll. 57-60) discloses: “*The purchase reward offers . . . can include standard rebates, trial rebates, gift offers, and sweepstakes offers.*”

Schultz (col. 5, ll. 57-60) discloses: “*Once the purchase reward offers . . . are defined by the manufacturer . . . the central management firm . . . stores records of the purchase reward offers . . . in an offer file . . . residing in the data bank of the PMCS [program management computer system] The products that are the subject of the purchase reward offers . . . have associated Universal Product Codes (UPC), which are used to access the reward offer records in the offer file. . . . In the instance when a reward offer applies to several products, the UPC of each eligible product for the reward offer will access to the reward offer record to which the products apply. . . .*” The Examiner interprets this disclosure as suggesting “wherein the point notification means

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comprises service contents storage means for storing a list of types of services and corresponding points. . . ."

Schultz (col. 6, ll. 5-12; and col. 7, ll. 60-68) discloses "*the manufacturer can offer an entry into a sweepstakes drawing for each product purchase. . . .*" The Examiner interprets this disclosure as suggesting "wherein the point notification means comprises service contents storage means for storing a list of types of services and corresponding points. . . ."

Schultz (col. 9, ll. 30-38; col. 9, ll. 47- 59; col. 10, ll. 7-35; col. 7, ll. 5-10; col. 7, ll. 20-59; col. 9, ll. 1-2; and col. 9, ll. 60-65) shows elements that suggest "notification means . . . displays . . . the list of the types of services and corresponding points to the customer. . . ."

Schultz does not explicitly show "types of services. . . ."

Burton (col. 1, ll. 10-20) discloses: "*The invention relates to the field of computer programming and data processing systems for incentive award programs [sic] Heretofore incentive companies have contracted with a sponsoring company for providing an incentive program to promote the sales of the sponsoring company's products or services. . . . The products or services promoted might have been of a specific nature. . . .*"

Burton (col. 1, ll. 17-20) discloses: "*Usually a certain number of points are awarded . . . [related to the] quantity of products or services.*"

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Burton proposes “types of services” modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the “services” modifications of Burton with the teachings of Schultz because “*the participant's memory of the . . . [services] stimulates recollection of the sponsor, thus reinforcing favorable thoughts toward the sponsor.*” (See Burton (col. 3, ll. 67-68; and col. 4, ll. 1-2)).

Schultz lacks an explicit recital of: “displays on a terminal the list of . . . points. . . .”

Small (FIG. 7 through FIG. 10; col. 1, ll. 13-26; col. 1, ll. 33-42; col. 6, ll. 48-55; col. 9, ll. 38-44; col. 9, ll. 53-56; col. 10, ll. 4-15; col. 11, ll. 3-9; col. 11, ll. 16-21; col. 11, ll. 62-63; and col. 12, ll. 33-40) shows elements that impliedly suggest the explicit recitation: “displays on a terminal the list of . . . points. . . .”

Small proposes “terminal display” modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the “terminal notification” modifications of Small with the teachings of Schultz because such modifications would have provided a means to “*Identify a user of a remote interface device and assign a user-specific indicia thereto for matching to a randomly selected game indicia to determine whether the user wins a prize. . . .*” (See Small (col. 2, ll. 30-40)).

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Schultz lacks an explicit recital of: “instantaneously notifying the customer of cumulative point information. . . .” and “wherein a number of the customer's cumulative points may be redeemed for a number of the types of services.”

Small (FIG. 7 through FIG. 10; col. 1, ll. 13-26; col. 1, ll. 33-42; col. 1, ll. 60-67; col. 4, ll. 27-35; col. 6, ll. 48-55; col. 9, ll. 28-37; col. 9, ll. 38-44; col. 9, ll. 53-56; col. 10, ll. 4-15; col. 11, ll. 3-9; col. 11, ll. 16-21; col. 11, ll. 62-63; col. 12, ll. 12-26; and col. 12, ll. 33-40) shows elements that suggest: “instantaneously notifying the customer of cumulative point information. . . .” and “wherein a number of the customer's cumulative points may be redeemed for a number of the types of services.”

Small proposes “types of service” and instantaneous terminal notification modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the “terminal notification” modifications of Small with the teachings of Schultz because such modifications would have provided a means to “*Identify a user of a remote interface device and assign a user-specific indicia thereto for matching to a randomly selected game indicia to determine whether the user wins a prize. . . .*” (See Small (col. 2, ll. 30-40)).

As per claim 52, Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-11; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 57-68; col. 6, ll. 1-4; and col. 6, ll. 10-12) shows a “point management system employing a computer for

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managing points issued to each customer who receives service according to the issued points. . . .”

Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 8, ll. 45-55; col. 8, ll. 64-65; and col. 10, ll. 46-50) shows “point issue means for issuing the points to the customer according to transactions performed by the customer. . . .”

Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 8, ll. 40-55; col. 8, ll. 64-65; col. 10, ll. 20-27; and col. 10, ll. 46-50) shows elements that suggest “point notification means for . . . notifying the customer of . . . point information comprising the issued points. . . .”

Schultz (col. 7, ll. 25-27) discloses “*accumulating sales data. . . .*” The Examiner interprets this disclosure as suggesting “point accumulation means. . . .”

Schultz (col. 10, ll. 7-15; col. 10, ll. 20-27; col. 10, ll. 36-39; col. 10, ll. 46-50; col. 9, ll. 25-33; col. 8, ll. 48-65; col. 7, ll. 25-27; col. 7, ll. 35-44; col. 8, ll. 1-6; and col. 5, ll. 45-53) shows “point accumulation means for calculating and accumulating the issued points. . . .”

Schultz (col. 6, ll. 28-36; col. 6, ll. 39-52; col. 7, ll. 5-10; and col. 10, ll. 1-13) shows elements that suggest “customer identification means for identifying the customer according to customer identification information. . . .”

Schultz (col. 8, ll. 30-63) discloses “*customer service support. . . .*” and elements that suggest “types of services. . . .”

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Schultz (col. 5, ll. 57-60) discloses: "*The purchase reward offers . . . can include standard rebates, trial rebates, gift offers, and sweepstakes offers.*"

Schultz (col. 5, ll. 57-60) discloses: "*Once the purchase reward offers . . . are defined by the manufacturer . . . the central management firm . . . stores records of the purchase reward offers . . . in an offer file . . . residing in the data bank of the PMCS [program management computer system] The products that are the subject of the purchase reward offers . . . have associated Universal Product Codes (UPC), which are used to access the reward offer records in the offer file. . . . In the instance when a reward offer applies to several products, the UPC of each eligible product for the reward offer will access to the reward offer record to which the products apply. . . .*" The Examiner interprets this disclosure as suggesting "wherein the point notification means further comprises service contents storage means for selecting a range of services available in exchange for the accumulated points of the customer, and . . . notifies the customer of the selected services. . . ."

Schultz (col. 9, ll. 30-38; col. 9, ll. 47- 59; col. 10, ll. 7-35; col. 7, ll. 5-10; col. 7, ll. 20-59; col. 9, ll. 1-2; and col. 9, ll. 60-65) shows "notification means . . . selects a range of services available for the accumulated points of the customer, and . . . notifies the customer of the selected services. . . ."

Schultz does not explicitly recite "selecting a range of services. . . ." even though Schultz (col. 9, ll. 30-38; col. 9, ll. 47- 59; col. 10, ll. 7-35; col. 7, ll. 5-10; col. 7, ll. 20-59; col. 9, ll. 1-2; and col. 9, ll. 60-65) suggests same.

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Burton (col. 1, ll. 10-20) discloses: "*The invention relates to the field of computer programming and data processing systems for incentive award programs [sic] Heretofore incentive companies have contracted with a sponsoring company for providing an incentive program to promote the sales of the sponsoring company's products or services. . . . The products or services promoted might have been of a specific nature. . . .*"

Burton (col. 1, ll. 17-20) discloses: "*Usually a certain number of points are awarded . . . [related to the] quantity of products or services.*"

Burton proposes "services" modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the "services" modifications of Burton with the teachings of Schultz because "*the participant's memory of the . . . [services] stimulates recollection of the sponsor, thus reinforcing favorable thoughts toward the sponsor.*" (See Burton (col. 3, ll. 67-68; and col. 4, ll. 1-2)).

Schultz lacks an explicit recital of: "instantaneously notifies the customer . . . through a terminal."

Small (FIG. 7 through FIG. 10; col. 1, ll. 13-26; col. 1, ll. 33-42; col. 1, ll. 60-67; col. 4, ll. 27-35; col. 6, ll. 48-55; col. 9, ll. 28-37; col. 9, ll. 38-44; col. 9, ll. 53-56; col. 10, ll. 4-15; col. 11, ll. 3-9; col. 11, ll. 16-21; col. 11, ll. 62-63; col. 12, ll. 12-26; and col. 12, ll. 33-40) shows elements that impliedly suggest: "instantaneously notifies the customer . . . through a terminal."

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Small proposes instantaneous terminal notification modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the “terminal notification” modifications of Small with the teachings of Schultz because such modifications would have provided a means to “*Identify a user of a remote interface device and assign a user-specific indicia thereto for matching to a randomly selected game indicia to determine whether the user wins a prize. . .*” (See Small (col. 2, ll. 30-40)).

As per claim 53, Schultz in view of Burton and further in view of Small shows the point management system of claim 52. (See the rejection of claim 52 supra).

Schultz does not explicitly recite: “wherein the service contents storage means stores the point information comprising target points for a service requested by the customer, the customer’s accumulated points, and shortage points relative to the customer’s target.”

Burton (col. 9, ll. 50-68) discloses “*objective for the incentive program’s participants. . .*” The Examiner interprets this disclosure as suggesting “target points.”

Burton (FIG. 2.8A; FIG. 2.8B; col. 9, ll. 50-68; col. 10, ll. 1-7; col. 10, ll. 44-51; col. 28, ll. 16-35; and col. 28, ll. 60-68) shows elements that suggest “wherein the service contents storage means stores the point information comprising target points for a service requested by the customer, the customer’s accumulated points, and shortage points relative to the customer’s target.”

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Burton proposes incentive objective modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the incentive objective modifications of Burton with the teachings of Schultz because “*the participants can choose to withhold none, part, or all of the monetary amount eligible for allocation toward the credit. . . .*” (See Burton (col. 4, ll.16-19)).

7. Independent claim 24 is rejected under 35 U.S.C. §103(a) as being unpatentable over Schultz in view of Humble 4,949,256 (8/14/1990) (herein referred to as “Humble”) and further in view of Small.

As per claim 24, Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-11; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 57-68; col. 6, ll. 1-4; and col. 6, ll. 10-12) shows a “point management system employing a computer for managing points issued to each customer who receives service according to the issued points. . . .”

Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 8, ll. 45-55; col. 8, ll. 64-65; and col. 10, ll. 46-50) shows “point issue means for issuing the points to the customer according to transactions performed by the customer. . . .”

Schultz (col. 7, ll. 25-27) discloses “*accumulating sales data. . . .*” The Examiner interprets this disclosure as suggesting “point accumulation means. . . .”

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Schultz (col. 10, ll. 7-15; col. 10, ll. 20-27; col. 10, ll. 36-39; col. 10, ll. 46-50; col. 9, ll. 25-33; col. 8, ll. 48-65; col. 7, ll. 25-27; col. 7, ll. 35-44; col. 8, ll. 1-6; and col. 5, ll. 45-53) shows elements that suggest “point accumulation means for calculating and accumulating the issued points. . . .”

Schultz (col. 6, ll. 28-36; col. 6, ll. 39-52; col. 7, ll. 5-10; and col. 10, ll. 1-13) shows “customer identification means for identifying the customer according to customer identification information. . . .”

Schultz lacks explicit mention of “condition monitor means for changing the accumulated points according to predetermined conditions. . . . wherein the condition monitor means adds interest to the customer’s points according to the accumulated points and periods of time.”

Humble (the FIGURE; col. 3, ll. 67-68; and col. 6, ll. 48-55) shows “condition monitor means for changing the accumulated points according to predetermined conditions. . . . wherein the condition monitor means adds interest to the customer’s points according to the accumulated points and periods of time.”

Humble proposes “condition monitor” modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the “condition monitor” modifications of Humble with the teachings of Schultz because such condition monitor means would have provided a “*validation network for automatically crediting customer’s*

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coupons toward the purchase price of a plurality of products. . . .” (See Humble (col. 2, ll. 66-68)).

Schultz lacks an explicit recitation of “the customer accesses the accumulated points stored on the computer through a terminal.”

Small (FIG. 7 through FIG. 10; col. 1, ll. 13-26; col. 1, ll. 33-42; col. 6, ll. 48-55; col. 9, ll. 38-44; col. 9, ll. 53-56; col. 10, ll. 4-15; col. 11, ll. 3-9; col. 11, ll. 16-21; col. 11, ll. 62-63; and col. 12, ll. 33-40) shows: “the customer accesses the accumulated points stored on the computer through a terminal.”

Small proposes “terminal notification” modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the “terminal notification” modifications of Small with the teachings of Schultz because such modifications would have provided a means to “*Identify a user of a remote interface device and assign a user-specific indicia thereto for matching to a randomly selected game indicia to determine whether the user wins a prize. . . .”* (See Small (col. 2, ll. 30-40)).

8. Independent claim 25 is rejected under 35 U.S.C. §103(a) as being unpatentable over Schultz in view of Humble and Burton and further in view of Small.

As per claim 25, Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-11; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 57-68; col. 6, ll. 1-4; and col. 6, ll. 10-12) shows a “point management system employing a computer for

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managing points issued to each customer who receives service according to the issued points. . . .”

Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 8, ll. 45-55; col. 8, ll. 64-65; and col. 10, ll. 46-50) shows “point issue means for issuing the points to the customer according to transactions performed by the customer. . . .”

Schultz (col. 7, ll. 25-27) discloses “*accumulating sales data. . . .*” The Examiner interprets this disclosure as suggesting “point accumulation means. . . .”

Schultz (col. 10, ll. 7-15; col. 10, ll. 20-27; col. 10, ll. 36-39; col. 10, ll. 46-50; col. 9, ll. 25-33; col. 8, ll. 48-65; col. 7, ll. 25-27; col. 7, ll. 35-44; col. 8, ll. 1-6; and col. 5, ll. 45-53) shows “point accumulation means for calculating and accumulating the issued points. . . .”

Schultz (col. 10, ll. 7-15; col. 10, ll. 20-27; col. 10, ll. 36-39; col. 10, ll. 46-50; col. 9, ll. 25-33; col. 8, ll. 48-65; col. 7, ll. 35-44; col. 8, ll. 1-6; and col. 5, ll. 45-53) shows “point accumulation means for calculating and accumulating the issued points. . . .”

Schultz (col. 6, ll. 28-36; col. 6, ll. 39-52; col. 7, ll. 5-10; and col. 10, ll. 1-13) shows “customer identification means for identifying the customer according to customer identification information. . . .”

Schultz lacks explicit mention of “condition monitor means for changing the accumulated points according to predetermined conditions. . . . wherein the condition monitor means decreases the customer’s points if the customer does not carry out a transaction during a predetermined period.”

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Humble (the FIGURE; col. 3, ll. 67-68; and col. 6, ll. 48-55) shows elements that suggest “condition monitor means for changing the accumulated points according to predetermined conditions. . . .”

Humble proposes “condition monitor” modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the “condition monitor” modifications of Humble with the teachings of Schultz because such condition monitor means would have provided a “*validation network for automatically crediting customer's coupons toward the purchase price of a plurality of products. . . .*” (See Humble (col. 2, ll. 66-68)).

Burton (FIG. 2.8A; FIG. 2.8B; col. 9, ll. 50-68; col. 10, ll. 1-7; col. 10, ll. 44-51; col. 28, ll. 16-35; and col. 28, ll. 60-68) shows elements that suggest “wherein the condition monitor means decreases the customer's points if the customer does not carry out a transaction during a predetermined period.”

Burton proposes credit decreasing modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the credit decreasing modifications of Burton with the teachings of Schultz because “*the participants can choose to withhold none, part, or all of the monetary amount eligible for allocation toward the credit. . . .*” (See Burton (col. 4, ll.16-19)).

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Schultz lacks an explicit recitation of “the customer accesses the accumulated points stored on the computer through a terminal.”

Small (FIG. 7 through FIG. 10; col. 1, ll. 13-26; col. 1, ll. 33-42; col. 6, ll. 48-55; col. 9, ll. 38-44; col. 9, ll. 53-56; col. 10, ll. 4-15; col. 11, ll. 3-9; col. 11, ll. 16-21; col. 11, ll. 62-63; and col. 12, ll. 33-40) shows elements that impliedly suggest: “the customer accesses the accumulated points stored on the computer through a terminal.”

Small proposes “terminal notification” modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the “terminal notification” modifications of Small with the teachings of Schultz because such modifications would have provided a means to *“Identify a user of a remote interface device and assign a user-specific indicia thereto for matching to a randomly selected game indicia to determine whether the user wins a prize. . . .”* (See Small (col. 2, ll. 30-40)).

9. Independent claims 26, 65-66 & 69 are rejected under 35 U.S.C. §103(a) as being unpatentable over Schultz and further in view of Small.

As per claim 26, Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-11; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 57-68; col. 6, ll. 1-4; and col. 6, ll. 10-12) shows a “point management system employing a computer for managing points issued to each customer who receives service according to the issued points. . . .”

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Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 8, ll. 45-55; col. 8, ll. 64-65; and col. 10, ll. 46-50) shows “point issue means for issuing the points to the customer according to transactions performed by the customer. . . .”

Schultz (col. 7, ll. 25-27) discloses “*accumulating sales data. . . .*” The Examiner interprets this disclosure as suggesting “point accumulation means. . . .”

Schultz (col. 10, ll. 7-15; col. 10, ll. 20-27; col. 10, ll. 36-39; col. 10, ll. 46-50; col. 9, ll. 25-33; col. 8, ll. 48-65; col. 7, ll. 25-27; col. 7, ll. 35-44; col. 8, ll. 1-6; and col. 5, ll. 45-53) shows “point accumulation means for calculating and accumulating the issued points. . . .”

Schultz (col. 6, ll. 28-36; col. 6, ll. 39-52; col. 7, ll. 5-10; and col. 10, ll. 1-13) shows “customer identification means for identifying the customer according to customer identification information. . . .”

Schultz (col. 4, ll. 60-61; and col. 5, ll. 9-10) discloses “*participating retail outlets. . . .*”

Schultz (col. 5, ll. 53-56) discloses “*Each retail outlet . . . may be part of a retail chain, and the method of the present invention can be adapted for use at retail outlets. . . . of different retail chains.*”

Schultz (col. 7, ll. 53-59) discloses “*the marketing program can be provided to consumers . . . through a plurality of retail stores associated with different retail chains. In the preferred embodiment, the consumer . . . is able to make reward product . . .*”

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purchases at more than one retail store . . . and have the purchase credits combined in the PMCS. . . .

The Examiner interprets these disclosures as suggesting “wherein the point accumulation means includes means for converting the customer’s points managed by a group of stores into points managed by another group of stores according to a predetermined rate if the customer requests the conversion.”

It would have been obvious to one of ordinary skill in the art at the time of the invention that the disclosure of Schultz (col. 7, ll. 53-59; col. 5, ll. 45-56; and col. 6, ll. 1-13) would have been selected in accordance with “wherein the point accumulation means includes means for converting the customer’s points managed by a group of stores into points managed by another group of stores according to a predetermined rate if the customer requests the conversion. . . .” because such selection would have provided means for the “*consumer . . . to make reward product . . . purchases at more than one retail store . . . and have the purchase credits combined. . . .*” (See Schultz (col. 7, ll. 53-59)).

Schultz lacks an explicit recitation of “the customer accesses the accumulated points stored on the computer through a terminal.”

Small (FIG. 7 through FIG. 10; col. 1, ll. 13-26; col. 1, ll. 33-42; col. 6, ll. 48-55; col. 9, ll. 38-44; col. 9, ll. 53-56; col. 10, ll. 4-15; col. 11, ll. 3-9; col. 11, ll. 16-21; col. 11, ll. 62-63; and col. 12, ll. 33-40) shows elements that suggest: “the customer accesses the accumulated points stored on the computer through a terminal.”

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Small proposes “terminal notification” modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the “terminal notification” modifications of Small with the teachings of Schultz because such modifications would have provided a means to “*Identify a user of a remote interface device and assign a user-specific indicia thereto for matching to a randomly selected game indicia to determine whether the user wins a prize. . .*” (See Small (col. 2, ll. 30-40)).

As per claim 65 Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-11; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 57-68; col. 6, ll. 1-4; and col. 6, ll. 10-12) shows a “point management system employing a computer for managing points issued to each customer who receives service according to the issued points. . .”

Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 8, ll. 45-55; col. 8, ll. 64-65; and col. 10, ll. 46-50) shows “point issue means for issuing the points to the customer according to transactions performed by the customer. . .”

Schultz (col. 7, ll. 25-27) discloses “*accumulating sales data. . .*” The Examiner interprets this disclosure as suggesting “point accumulation means. . .”

Schultz (col. 10, ll. 7-15; col. 10, ll. 20-27; col. 10, ll. 36-39; col. 10, ll. 46-50; col. 9, ll. 25-33; col. 8, ll. 48-65; col. 7, ll. 25-27; col. 7, ll. 35-44; col. 8, ll. 1-6; and col. 5, ll.

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45-53) shows “point accumulation means for calculating and accumulating the issued points for more than two transactions. . . .”

Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 7, ll. 25-27; col. 8, ll. 40-55; col. 8, ll. 64-65; col. 10, ll. 20-27; and col. 10, ll. 46-50) shows elements that suggest “point notification means for . . . notifying the customer of cumulative point information. . . .”

Schultz (col. 6, ll. 28-36; col. 6, ll. 39-52; col. 7, ll. 5-10; and col. 10, ll. 1-13) shows “customer identification means for identifying the customer according to customer identification information. . . .”

Schultz (col. 7, ll. 53-59; col. 5, ll. 45-56; and col. 6, ll. 1-13) discloses elements that suggest “wherein the point issue means comprises rate management means for changing a point calculation rate according to each of the more than two transactions.”

Schultz lacks an explicit recitation of: “wherein the point issue means comprises rate management means for changing a point calculation rate according to each of the more than two transactions.”

It would have been obvious to one of ordinary skill in the art at the time of the invention that the disclosure of Schultz (col. 7, ll. 53-59; col. 5, ll. 45-56; and col. 6, ll. 1-13) would have been selected in accordance with “wherein the point issue means comprises rate management means for changing a point calculation rate according to each of the more than two transactions. . . .” because such selection would have provided means for the “*consumer . . . to make reward product . . . purchases at more than one*

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retail store . . . and have the purchase credits combined. . . .” (See Schultz (col. 7, ll. 53-59)).

Schultz lacks an explicit recitation of: “instantaneously notifying the customer. . . .”

Small (FIG. 7 through FIG. 10; col. 1, ll. 13-26; col. 1, ll. 33-42; col. 1, ll. 60-67; col. 4, ll. 27-35; col. 6, ll. 48-55; col. 9, ll. 28-37; col. 9, ll. 38-44; col. 9, ll. 53-56; col. 10, ll. 4-15; col. 11, ll. 3-9; col. 11, ll. 16-21; col. 11, ll. 62-63; col. 12, ll. 12-26; and col. 12, ll. 33-40) shows: “instantaneously notifying the customer. . . .”

Small proposes “types of service” and instantaneous terminal notification modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the instantaneous “notification” modifications of Small with the teachings of Schultz because such modifications would have provided a means to “*Identify a user of a remote interface device and assign a user-specific indicia thereto for matching to a randomly selected game indicia to determine whether the user wins a prize. . . .*” (See Small (col. 2, ll. 30-40)).

As per claim 66 Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-11; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 57-68; col. 6, ll. 1-4; and col. 6, ll. 10-12) shows a “point management system employing

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a computer for managing points issued to each customer who receives service according to the issued points. . . .”

Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 8, ll. 45-55; col. 8, ll. 64-65; and col. 10, ll. 46-50) shows “point issue means for issuing the points to the customer according to transactions performed by the customer. . . .”

Schultz (col. 7, ll. 25-27) discloses “*accumulating sales data. . . .*” The Examiner interprets this disclosure as suggesting “point accumulation means. . . .”

Schultz (col. 10, ll. 7-15; col. 10, ll. 20-27; col. 10, ll. 36-39; col. 10, ll. 46-50; col. 9, ll. 25-33; col. 8, ll. 48-65; col. 7, ll. 25-27; col. 7, ll. 35-44; col. 8, ll. 1-6; and col. 5, ll. 45-53) shows “point accumulation means for calculating and accumulating the issued points for more than two transactions. . . .”

Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 7, ll. 25-27; col. 8, ll. 40-55; col. 8, ll. 64-65; col. 10, ll. 20-27; and col. 10, ll. 46-50) shows elements that suggest “point notification means for . . . notifying the customer of cumulative point information. . . .”

Schultz (col. 5, ll. 57-60) discloses: “*Once the purchase reward offers . . . are defined by the manufacturer . . . the central management firm . . . stores records of the purchase reward offers . . . in an offer file . . . residing in the data bank of the PMCS [program management computer system] The products that are the subject of the purchase reward offers . . . have associated Universal Product Codes (UPC), which are used to access the reward offer records in the offer file. . . . In the instance when a*

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reward offer applies to several products, the UPC of each eligible product for the reward offer will access to the reward offer record to which the products apply. . . ." The Examiner interprets this disclosure as suggesting "point storing means for storing point information comprising the issued points for each customer identification. . . ."

Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 8, ll. 40-55; col. 8, ll. 64-65; col. 10, ll. 20-27; and col. 10, ll. 46-50) shows "point notification means for notifying the customer of point information. . . ."

Schultz (col. 6, ll. 28-36; col. 6, ll. 39-52; col. 7, ll. 5-10; and col. 10, ll. 1-13) shows "customer identification means for identifying the customer according to customer identification. . . ."

Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 8, ll. 40-55; col. 8, ll. 64-65; col. 10, ll. 20-27; and col. 10, ll. 46-50) shows "wherein the point notification means notifies the customer of the point information before the customer carries out transactions. . . ."

Schultz (col. 7, ll. 53-59; col. 5, ll. 45-56; and col. 6, ll. 1-13) discloses elements that suggest "wherein the point issue means comprises rate management means for changing a point calculation rate according to each of the more than two transactions."

Schultz lacks an explicit recitation of: "wherein the point issue means comprises rate management means for changing a point calculation rate according to each of the more than two transactions."

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It would have been obvious to one of ordinary skill in the art at the time of the invention that the disclosure of Schultz (col. 7, ll. 53-59; col. 5, ll. 45-56; and col. 6, ll. 1-13) would have been selected in accordance with "wherein the point issue means comprises rate management means for changing a point calculation rate according to each of the more than two transactions. . . ." because such selection would have provided means for the "*consumer . . . to make reward product . . . purchases at more than one retail store . . . and have the purchase credits combined. . . .*" (See Schultz (col. 7, ll. 53-59)).

Schultz lacks an explicit recitation of: "instantaneously notifying the customer. . . ."

Small (FIG. 7 through FIG. 10; col. 1, ll. 13-26; col. 1, ll. 33-42; col. 1, ll. 60-67; col. 4, ll. 27-35; col. 6, ll. 48-55; col. 9, ll. 28-37; col. 9, ll. 38-44; col. 9, ll. 53-56; col. 10, ll. 4-15; col. 11, ll. 3-9; col. 11, ll. 16-21; col. 11, ll. 62-63; col. 12, ll. 12-26; and col. 12, ll. 33-40) shows: "instantaneously notifying the customer. . . ."

Small proposes "types of service" and instantaneous terminal notification modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the instantaneous "notification" modifications of Small with the teachings of Schultz because such modifications would have provided a means to "*Identify a user of a remote interface device and assign a user-specific indicia thereto for matching to a*

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randomly selected game indicia to determine whether the user wins a prize. . . . (See Small (col. 2, ll. 30-40)).

As per claim 69, Schultz shows the method of claim 67. (See the rejection of claim 67 supra).

Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-11; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 57-68; col. 6, ll. 1-4; and col. 6, ll. 10-12) shows “providing of the point service further comprises. . . . displaying a number of present cumulative points of the customer.”

Schultz lacks an explicit recitation of “instantaneously displaying. . . .”

Small (FIG. 7 through FIG. 10; col. 1, ll. 13-26; col. 1, ll. 33-42; col. 1, ll. 60-67; col. 4, ll. 27-35; col. 6, ll. 48-55; col. 9, ll. 28-37; col. 9, ll. 38-44; col. 9, ll. 53-56; col. 10, ll. 4-15; col. 11, ll. 3-9; col. 11, ll. 16-21; col. 11, ll. 62-63; col. 12, ll. 12-26; and col. 12, ll. 33-40) shows elements that suggest: “instantaneously displaying. . . .”

Small proposes instantaneous display modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the instantaneous display modifications of Small with the teachings of Schultz because such modifications would have provided a means to “*Identify a user of a remote interface device and assign a user-specific indicia thereto for matching to a randomly selected game indicia to determine whether the user wins a prize. . . .*” (See Small (col. 2, ll. 30-40)).

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10. Claims 30, 32-35 are rejected under 35 U.S.C. §103(a) as being unpatentable over Schultz in view of Burton and Small and further in view of Bay 5,347,452 (09/13/1994) [US f/d: 07/12/1991] (herein referred to as “Bay”).

As per claim 30, Schultz in view of Burton shows the point management system of claim 17. (See the rejection of claim 17 supra).

Schultz lacks explicit mention of “the point accumulation means displays a colored striped line thereof reduces the length of the striped line according to the decrease in points.”

Bay (FIG. 1A; and FIG. 1, el. 28) discloses notoriously well known color coded, bar chart and line chart graphics concepts.

Bay (FIG. 1A; and FIG. 1, el. 28) shows elements that impliedly suggest: “the point accumulation means displays a colored striped line thereof reduces the length of the striped line according to the decrease in points.”

Bay proposes color coded bar/line chart modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the bar/line chart modifications of Bay with the teachings of Schultz because such modifications would have provided a “display . . . of current volume and historical volume. . . .” (See Bay (col. 2, ll. 35-36)).

As per claim 32, Schultz in view of Burton shows the point management system of claim 30. (See the rejection of claim 30 supra).

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Schultz does not explicitly recite: “wherein the point information includes target points and corresponding electronic services.”

Burton (col. 9, ll. 50-68) discloses “*objective for the incentive program's participants. . .*” The Examiner interprets this disclosure as suggesting “target points.”

Burton (FIG. 2.8A; FIG. 2.8B; col. 9, ll. 50-68; col. 10, ll. 1-7; col. 10, ll. 44-51; col. 28, ll. 16-35; and col. 28, ll. 60-68) shows elements that impliedly suggest “wherein the point information includes target points and corresponding electronic services.”

Burton proposes incentive objective modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the incentive objective modifications of Burton with the teachings of Schultz because “*the participants can choose to withhold none, part, or all of the monetary amount eligible for allocation toward the credit. . .*” (See Burton (col. 4, ll.16-19)).

As per claim 33, Schultz in view of Burton shows the point management system of claim 30. (See the rejection of claim 30 supra).

Schultz does not explicitly recite: “wherein the point information includes services corresponding to the customer's cumulative points provided by the point accumulation means.”

Burton (FIG. 2.8A; FIG. 2.8B; col. 9, ll. 50-68; col. 10, ll. 1-7; col. 10, ll. 44-51; col. 28, ll. 16-35; and col. 28, ll. 60-68) shows elements that suggest “wherein the point

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information includes services corresponding to the customer's cumulative points provided by the point accumulation means."

Burton proposes cumulative point modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the incentive objective modifications of Burton with the teachings of Schultz because "*the participants can choose to withhold none, part, or all of the monetary amount eligible for allocation toward the credit. . .*" (See Burton (col. 4, ll.16-19)).

As per claim 34, Schultz in view of Burton shows the point management system of claim 30. (See the rejection of claim 30 supra).

Schultz does not explicitly recite: "wherein the point information includes the customer's cumulative points, or a shortage of points with respect to target points registered or specified by the customer."

Burton (col. 9, ll. 50-68) discloses "*objective for the incentive program's participants. . .*" The Examiner interprets this disclosure as suggesting "target points."

Burton (FIG. 2.8A; FIG. 2.8B; col. 9, ll. 50-68; col. 10, ll. 1-7; col. 10, ll. 44-51; col. 28, ll. 16-35; and col. 28, ll. 60-68) shows elements that suggest "wherein the point information includes the customer's cumulative points, or a shortage of points with respect to target points registered or specified by the customer."

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Burton proposes incentive objective modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the incentive objective modifications of Burton with the teachings of Schultz because “*the participants can choose to withhold none, part, or all of the monetary amount eligible for allocation toward the credit. . .*” (See Burton (col. 4, ll.16-19)).

As per claim 35, Schultz in view of Burton shows the point management system of claim 30. (See the rejection of claim 30 supra).

Schultz (col. 3, ll. 32-37) shows elements that suggest “wherein the point information includes the validity of the customer’s cumulative points.”

Schultz does not explicitly recite: “wherein the point information includes the validity of the customer’s cumulative points.”

It would have been obvious to one of ordinary skill in the art at the time of the invention that the disclosure of Schultz (col. 3, ll. 32-37) would have been selected in accordance with “wherein the point information includes the validity of the customer’s cumulative points. . .” because such validation would have encouraged “*continued purchases of targeted products beyond the one-time incentive of prior coupon systems.*” (See Schultz (col. 4, ll.45-47)).

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11. Dependent claim 37 is rejected under 35 U.S.C. §103(a) as being unpatentable over Schultz in view of Burton and Bay and further in view of Rudd 4,292,508 (9/29/1981) (herein referred to as “Rudd”).

As per claim 37 Schultz in view of Burton shows the point management system of claim 35. (See the rejection of claim 35 supra).

Schultz does not explicitly recite: “changing points or point calculation rates allocated for commodities. . . .”

Burton (col. 12, ll.27-37) shows elements that impliedly suggest: “changing points or point calculation rates allocated for commodities. . . .”

Burton proposes point changing and percentage modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the modifications of Burton with the teachings of Schultz because “*the participants can choose to withhold none, part, or all of the monetary amount eligible for allocation toward the credit. . . .*” (See Burton (col. 4, ll.16-19)).

Schultz does not explicitly recite: “changing points or point calculation rates allocated for commodities at random within a predetermined range. . . .”

Rudd (the ABSTRACT; col. 1, ll. 4-11; col. 1, ll. 14-31; col. 1, ll. 63-68; col. 2, ll. 1-4; col. 2, ll. 24-33; and col. 3, ll. 31-38) shows elements that impliedly suggest: “changing points or point calculation rates allocated for commodities at random within a predetermined range. . . .”

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Rudd proposes “changing . . . point calculation rates allocated for commodities at random within a predetermined range . . .” modifications that would have applied to the award system and method of Schultz. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the modifications of Rudd with the teachings of Schultz because such combined modifications would have provided means for “*allocating a bonus to customers. . .*” (See Rudd (col. 1, ll.16-24)).

12. Independent claim 67 and dependent claim 68 are rejected under 35 U.S.C. §103(a) as being unpatentable over Schultz.

As per claim 67, Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-25; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 57-68; col. 6, ll. 1-4; and col. 6, ll. 10-12) shows a “method for implementing a point management system in a store. . .”

Schultz (the ABSTRACT) discloses “*member consumers. . .*” The Examiner interprets this disclosure as suggesting “registering the customer. . .”

Schultz (col. 4, ll. 62-67) shows elements that impliedly suggest “receiving a customer ID as entered by a customer . . . [and] determining whether the customer entering the customer ID is registered, and if not registering the customer if the customer[sic]. . .”

Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-25; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 57-68; col. 6, ll. 1-4; and col. 6, ll. 10-

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12) shows elements that impliedly suggest “providing a point service to the customer if a request therefore is received from the customer.”

Schultz lacks an explicit recitation of “providing a point service to the customer if a request therefore is received from the customer.”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-25; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 57-68; col. 6, ll. 1-4; and col. 6, ll. 10-12) would have been selected in accordance with “providing a point service to the customer if a request therefore is received from the customer. . . .” based upon the motivation to modify Schultz found in the Schultz reference itself, i.e., because such selection would have provided means for “*a marketing program . . . [to reward] specific purchase behavior and [increase] consumer brand loyalty for manufacturers who participate in the program.*” (See Schultz (col. 4, ll. 50-55)).

As per claim 68, Schultz shows the method of claim 67. (See the rejection of claim 67 supra).

Schultz (col. 4, ll. 5-16) shows “closing a transaction for a sale of a commodity with the customer.”

Schultz lacks an explicit recitation of “closing a transaction for a sale of a commodity with the customer.”

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It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Schultz (col. 4, ll. 5-16) would have been selected in accordance with “closing a transaction for a sale of a commodity with the customer. . . .” based upon the motivation to modify Schultz found in the Schultz reference itself, i.e., because such selection would have provided a “*method for encouraging continued purchases of targeted products. . . .*” (See Schultz (col. 4, ll. 44-50)).

As per claim 70, Schultz shows the method of claim 67. (See the rejection of claim 67 supra).

Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-25; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 57-68; col. 6, ll. 1-4; and col. 6, ll. 10-12) shows “wherein the providing of the point service further comprises displaying a plurality of point services; running one of the plurality of point services when requested by the customer. . . .”

Schultz (col. 7, ll. 25-27) discloses “*accumulating sales data. . . .*” The Examiner interprets this disclosure as suggesting “cumulative points. . . .”

Schultz (col. 10, ll. 7-15; col. 10, ll. 20-27; col. 10, ll. 36-39; col. 10, ll. 46-50; col. 9, ll. 25-33; col. 8, ll. 48-65; col. 7, ll. 25-27; col. 7, ll. 35-44; col. 8, ll. 1-6; and col. 5, ll. 45-53) shows “point accumulation means for calculating and accumulating the issued points for more than two transactions. . . .”

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Schultz (col. 6, ll. 6-10; col. 4, ll. 56-60; col. 5, ll. 15-20; col. 7, ll. 25-27; col. 8, ll. 40-55; col. 8, ll. 64-65; col. 10, ll. 20-27; and col. 10, ll. 46-50) shows elements that suggest “updating the number of present cumulative points. . . .”

Schultz lacks an explicit recitation of “updating the number of present cumulative points of the customer according to whether one of the plurality of point services is run.”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-25; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 57-68; col. 6, ll. 1-4; and col. 6, ll. 10-12) would have been selected in accordance with “updating the number of present cumulative points of the customer according to whether one of the plurality of point services is run. . . .” based upon the motivation to modify Schultz found in the Schultz reference itself, i.e., because such selection would have provided means for “*a marketing program . . . [to reward] specific purchase behavior and [increase] consumer brand loyalty for manufacturers who participate in the program.*” (See Schultz (col. 4, ll. 50-55)).

As per claim 71, Schultz shows the method of claim 67. (See the rejection of claim 67 supra).

Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-25; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 55-68; col. 6, ll. 1-4; and col. 6, ll. 10-

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12) shows “wherein the providing of the point service further comprises displaying a point service information.”

Schultz lacks an explicit recitation of “displaying a point service information.”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Schultz (col. 5, ll. 55-68) would have been selected in accordance with “displaying a point service information. . . .” based upon the motivation to modify Schultz found in the Schultz reference itself, i.e., because such selection would have provided means for “*a marketing program . . . [to reward] specific purchase behavior and [increase] consumer brand loyalty for manufacturers who participate in the program.*” (See Schultz (col. 4, ll. 50-55)).

As per claim 72, Schultz shows the method of claim 71. (See the rejection of claim 71 supra).

Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-25; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 55-68; col. 6, ll. 1-4; and col. 6, ll. 10-12) shows providing “point service information. . . .”

Schultz lacks an explicit recitation of “wherein the point service information is special days of the store, special days of the customer, service hours, service periods, or service areas.”

“Official Notice” is taken that both the concepts and the advantages of “wherein the point service information is special days of the store, special days of the customer,

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service hours, service periods, or service areas. . . .” were well known and expected in the art by one of ordinary skill at the time of the invention based upon the motivation to modify Schultz found in the Schultz reference itself, i.e., because such selection would have provided means for “*a marketing program . . . [to reward] specific purchase behavior and [increase] consumer brand loyalty for manufacturers who participate in the program.*” (See Schultz (col. 4, ll. 50-55)).

As per claim 73, Schultz shows the method of claim 67. (See the rejection of claim 67 supra).

Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-25; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 55-68; col. 5, ll. 20-30 col. 6, ll. 1-4; and col. 6, ll. 10-12) shows “wherein the providing of the point service further comprises issuing points to the customer.”

Schultz lacks an explicit recitation of “wherein the providing of the point service further comprises issuing points to the customer.”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Schultz (col. 5, ll. 55-68; and col. 5, ll. 20-30) would have been selected in accordance with “wherein the providing of the point service further comprises issuing points to the customer. . . .” based upon the motivation to modify Schultz found in the Schultz reference itself, i.e., because such selection would have provided means for “*a marketing program . . . [to reward] specific purchase behavior* .

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and [increase] consumer brand loyalty for manufacturers who participate in the program.” (See Schultz (col. 4, ll. 50-55)).

As per claim 74, Schultz shows the method of claim 67. (See the rejection of claim 67 supra).

Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-25; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 55-68; col. 5, ll. 20-30 col. 6, ll. 1-4; and col. 6, ll. 10-12) shows elements that impliedly suggest, “wherein the providing of the point service further comprises accumulating points for the customer.”

Schultz lacks an explicit recitation of “wherein the providing of the point service further comprises accumulating points for the customer.”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Schultz (col. 5, ll. 55-68; and col. 5, ll. 20-30) would have been selected in accordance with “wherein the providing of the point service further comprises issuing points to the customer. . . .” based upon the motivation to modify Schultz found in the Schultz reference itself, i.e., because such selection would have provided means for “*a marketing program . . . [to reward] specific purchase behavior and [increase] consumer brand loyalty for manufacturers who participate in the program.” (See Schultz (col. 4, ll. 50-55)).*

As per claim 75, Schultz shows the method of claim 67. (See the rejection of

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Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-25; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 55-68; col. 6, ll. 1-4; and col. 6, ll. 10-12) shows providing “point service information. . . .”

Schultz (col. 5, ll. 57-60) discloses: “*The purchase reward offers . . . can include standard rebates, trial rebates, gift offers, and sweepstakes offers.*”

Schultz (FIG. 2) shows “*REBATE*” means. The Examiner interprets “rebate” means as suggesting exchanging money for cumulative points of the customer.”

Schultz lacks an explicit recitation of “wherein the providing of the point service further comprises exchanging money for cumulative points of the customer.”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Schultz (FIG. 2; and col. 5, ll. 57-60), i.e., “*REBATE*” means would have been selected in accordance with “wherein the providing of the point service further comprises exchanging money for cumulative points of the customer. . . .” based upon the motivation to modify Schultz found in the Schultz reference itself, i.e., because such selection would have provided means for “*a marketing program . . . [to reward] specific purchase behavior and [increase] consumer brand loyalty for manufacturers who participate in the program.*” (See Schultz (col. 4, ll. 50-55)).

As per claim 77, Schultz shows the method of claim 67. (See the rejection of claim 67 supra).

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Schultz (the ABSTRACT; FIG. 1; FIG. 2; col. 1, ll. 6-25; col. 1, ll. 15-16; col. 6, ll. 5-10; col. 5, ll. 12-15; col. 5, ll. 47-53; col. 5, ll. 55-68; col. 5, ll. 20-30 col. 6, ll. 1-4; and col. 6, ll. 10-12) shows elements that impliedly suggest “managing a customer database.”

Schultz (FIG. 1) shows “*CONSUMER HISTORY RECORDS.*”

Schultz (FIG. 2) shows “*CUSTOMER FILES.*”

Schultz lacks an explicit recitation of “managing a customer database.”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Schultz (FIG. 1; and FIG. 2) would have been selected in accordance with “managing a customer database. . . .” based upon the motivation to modify Schultz found in the Schultz reference itself, i.e., because such selection would have provided means for “*a marketing program . . . [to reward] specific purchase behavior and [increase] consumer brand loyalty for manufacturers who participate in the program.*” (See Schultz (col. 4, ll. 50-55)).

RESPONSE TO ARGUMENTS

13. Applicant's arguments filed 06/04/2002 (Amendment I, paper# 46) have been fully considered but they are not persuasive.

In response to Applicant's argument (paper#46, pp. 7-8 & 12), that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the

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claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In each claim rejection, the motivation to combine and/or modify the references or reference is based upon evidentiary facts gleaned from the references themselves, as well as from the knowledge generally available to one of ordinary skill in the art.

In response to Applicant's argument (paper#46, p. 10), that "none of Schultz, Burton, or Small discloses or suggests 'instantaneous' notification of 'cumulative point information' to the customer. . . .", Applicant's attention is directed to Schultz (col. 4, ll. 55-65) which suggests: displaying notification of cumulative pint information to the customer. And also, see Small (col. 1, ll. 60-67, col. 4, ll. 27-35, col. 12, ll. 12-26; and col. 9, ll. 28-37) which suggests instantaneous notification.

In response to Applicant's argument (paper#46, p. 10), that "none of Schultz, Burton, or Small discloses or suggests "types of services", Applicant's attention is directed to Small (col. 9, ll. 28-37) which suggests "types of services."

In response to Applicant's argument (paper#46, p. 11), that "[the] Examiner admits that. . . ." the references fail to show the invention recited in the claims of the instant

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application, the Examiner proffers that this is not the case. The prior office action never admits or concedes that the prior art references relied upon do not teach or suggest the elements and limitations claimed in the instant invention. The prior Office Action does however, indicate that some of the primary references lack an explicit recitation of some the claimed elements and limitations. But this is not an admission about any perceived inadequacy of the references. To the contrary, the phrase "lacks explicit recitation. . ." is merely the transition phraseology to the factual inquires set forth in *Graham v. John Deer Co.*, 383 U.S. 1, 86 S. Ct. 684, 15 L.Ed. 2nd 545 (1966), 148 USPQ 459 and the 35 USC §103(a) Obviousness proposition that even though the primary reference does not explicitly recite the claimed elements and limitations, the reference does in fact suggest the claimed elements and limitations of the instant invention and further more, provides evidence of *prima facie* obviousness in the combination of the teachings of the references.

CONCLUSION

14. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Any response to this action may be sent via facsimile to either:

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(703) 746-7239 or (703) 872-9314 (for formal communications EXPEDITED PROCEDURE) or
(703) 746-7239 (for formal communications marked AFTER-FINAL) or
(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The Examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

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